

A labor organization, otherwise exempt from Federal income tax under section 501(c)(5) of the Internal Revenue Code of 1954, is subject to the unrelated business income tax imposed by section 511 of the Code with respect to income derived from the performance of accounting and tax services for certain of its members.

Advice has been requested whether an exempt labor organization is subject to the tax, imposed by section 511 of the Internal Revenue Code of 1954 on unrelated business taxable income, with respect to income derived from the performance of accounting and tax services for certain of its members.

The instant organization is a local chapter of a labor union and is exempt from Federal income taxation under section 501(a) of the Code as an organization described in section 501(c)(5) of the Code. Certain members of the local are engaged in activities of an itinerant nature and are considered employers for Federal employment tax purposes. The employees of such members are also members of the local.

Due to the conditions under which such individuals perform their services, the employer members find it impracticable to maintain separate offices solely for the purpose of keeping employment records and filing the necessary tax returns. Accordingly, they have made arrangements with the local to handle all of their accounting and tax work. The local is paid an agreed percentage of the weekly remuneration of the members involved which it credits to a 'Tax fund.' The local then pays all unemployment and social security taxes, industrial insurance premiums for such members, and its incurred operating expenses from such fund. After paying these items, the amount remaining in the fund is transferred annually to the general operating funds of the local.

The labor and other organizations contemplated by section 501(c)(5) of the Code have as their objects the betterment of conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Section 511 of the Code imposes a tax on the unrelated business taxable income, as computed under section 512 of the Code, of organizations otherwise exempt from tax under section 501(c)(5) of the Code. The term 'unrelated business taxable income' as defined in section 512 of the Code means, with certain exceptions, additions, and limitations, the gross income derived by any subject organization from any unrelated trade or business regularly carried on by it, less allowable deductions directly connected with the carrying on of such trade or business. Section 513 of the Code defines the term 'unrelated trade or business,' in the case of any organization subject to the tax

imposed by section 511 of the Code, as any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its exempt functions.

The providing of an accounting and tax service is a business of a kind regularly carried on for profit. The performance of such services is not substantially related to the purposes forming the basis for exemption of the instant organization.

Accordingly, it is held that the accounting and tax services performed by the instant organization for certain of its members constitute the conduct of an unrelated trade or business within the meaning of section 513 of the Code, and the organization is subject to the tax imposed by section 511 of the Code on unrelated business taxable income with respect to the income derived from such activity.